

7. FORMAL DISCIPLINARY ACTIONS. A formal disciplinary action may be an official written reprimand, a suspension, a change to a lower grade, or removal from the civil service. Records of formal disciplinary actions become a part of the employee's official personnel folder. Supervisors should initiate such actions only after coordinating any proposed action with their servicing Personnel Offices. Detailed information concerning formal disciplinary actions is contained in the paragraphs below.

a. Official Written Reprimand. An official written reprimand is a letter or memorandum issued to an employee by an authorized supervisor or management official to correct an employee's conduct, attitude, work habits, or other factors which have a relationship to his or her employment, and to maintain the efficiency, discipline, and morale of the work force. It is filed in the employee's official personnel folder for a period of up to two years. This type of disciplinary action may be used for a situation or offense which is (1) serious and warrants more than an informal measure, or (2) in the case of repeated infractions of a minor nature. (It should not be confused with the written warning discussed in subparagraph 6c above.) Before issuing an official reprimand, the supervisor must fully discuss the incident with the employee to permit the employee to present his or her side of the situation. If after the employee presents his or her views, the supervisor considers a reprimand to be warranted, the supervisor should prepare the written reprimand in accordance with subparagraph 7a(1) below. (See sample in Figure 1.)

(1) Contents. The following information shall be incorporated in the body of an official reprimand:

(a) A description of the facts in sufficient detail to assure that the employee will fully understand the violation, infraction, misconduct, or other action or omission for which he or she is being reprimanded. The supervisor should include in the reprimand specifics as to times, places, dates, and events, and refer to the discussion mentioned in subparagraph 7a above.

(b) A statement that the document is an official reprimand and that it will be made a matter of record and filed in the employee's official personnel folder for a period not to exceed two years.

(c) A restatement of any former incidents if the reprimand is a follow-up of previous offenses and the action is a continuation of constructive discipline. If the employee failed to take any remedial action previously stipulated, that fact should also be included.

(d) A warning that any future similar occurrence or other misconduct may result in more severe disciplinary measures.

APPENDIX - GUIDANCE ON CORRECTIVE DISCIPLINEDetermining Appropriate Penalties

The Merit System Protection Board, in Douglas vs. Veterans Administration, MSPR Packet No. AT075299006 (April 10, 1981), has outlined a number of factors that should be considered in determining the appropriateness of a penalty. While not exhaustive, those generally recognized as relevant include the following:

- (1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical, or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- (2) The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and the prominence of the position;
- (3) The employee's past disciplinary record;
- (4) The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- (5) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties;
- (6) Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- (7) Consistency of the penalty with any applicable agency table of penalties;
- (8) The notoriety of the offense or its impact upon the reputation of the Agency;
- (9) The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
- (10) Potential for the employee's rehabilitation;
- (11) Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
- (12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Not all of these factors will be pertinent in every case, and frequently in an individual case some of the pertinent factors will weigh in the employee's favor while others may not, or may even constitute aggravating circumstances.

Table of Offenses and Penalties

This table should be used as a guide by supervisors in order to facilitate comparable action throughout the Agency in comparable cases. While penalties for offenses will usually fall within the ranges indicated, in unusual circumstances greater or lesser penalties may be applied unless otherwise provided by law. The list of offenses in this table is not meant to be all inclusive. For offenses not listed, penalties may be imposed which are consistent with penalties listed in the table for offenses of comparable gravity. Days always means calendar days.

Nature of Offense	1st Offense	2nd Offense	3rd Offense
1. Attendance-related offenses.			
<p>a. Unexcused tardiness.</p> <p>This includes delay in reporting at the scheduled starting time, returning from lunch and returning after leaving work station on official business.</p> <p>4th offense may warrant 5-day suspension to removal.</p>	Oral admonishment	Oral admonishment to 1-day suspension	Oral admonishment to 5-day suspension

Nature of Offense	1st Offense	2nd Offense	3rd
<p>b. Absence without leave (AWOL).</p> <p>These penalties generally do not apply to AWOL charged for tardiness of 1/2 hour or less. (See 1a above.) This offense includes leaving the work station without permission.</p> <p>Penalty depends on length and frequency of absences. If absence exceeds 5 consecutive work days, employee may be removed at any time.</p>	Written reprimand to 5-day suspension	1-day to 14-day suspension	5-day suspension to removal
c. Failure to follow established leave procedures.	Written reprimand to 5-day suspension	1-day to 5-day suspension	5-day suspension to removal
2. Breach of safety regulations or practices.			
a. Where imminent danger to persons or property is not involved.	Written reprimand to 1-day suspension	1-day to 14-day suspension	5-day suspension to removal

Nature of Offense	1st Offense	2nd Offense	3rd Offense
<p>b. Where imminent danger to persons or property is involved.</p> <p>"Persons" includes "self". Penalty depends on seriousness of injury or potential injury and extent or potential extent of damages to property.</p>	Written reprimand to removal	14-day suspension to removal	Removal
<p>3. Breach of security regulations or practice.</p> <p>a. Where restricted information is not compromised and breach is unintentional.</p> <p>b. Where restricted information is compromised and breach is unintentional.</p> <p>c. Deliberate violation.</p>	<p>Oral admonishment to 5-day suspension</p> <p>Written reprimand to removal</p> <p>30-day suspension to removal</p>	<p>Written reprimand to 14-day suspension</p> <p>14-day suspension to removal</p> <p>Removal</p>	<p>5-day suspension to removal</p> <p>Removal</p>
<p>4. Offenses related to intoxicants.</p> <p>Supervisors should follow the procedures</p>			

Nature of Offense	1st Offense	2nd Offense	3rd Offense
<p>outlined in EPA Order 3120.3A, Employee Alcoholism and Drug Abuse Program, prior to taking disciplinary action in these cases.</p> <p>a. Alcohol-related:</p> <p>(1) Unauthorized possession of alcoholic beverages on Government premises or in duty status.</p> <p>(2) Unauthorized use of alcoholic beverages while on Government premises or in duty status.</p> <p>(3) Reporting to or being on duty while under the influence of alcohol.</p> <p>(4) Sale or transfer of an alcoholic beverage while on Government premises or in a duty status or while any person involved is in a duty status.</p> <p>b. Drug-related:</p> <p>(1) Unauthorized possession of a drug or controlled substance while on Government premises or in a duty status.</p>	<p>Written reprimand to 5-day suspension</p> <p>Written reprimand to 14-day suspension</p> <p>Written reprimand to 30-day suspension</p> <p>Written reprimand to removal</p> <p>5-day to 30-day suspension</p>	<p>5-day to 14-day suspension</p> <p>10-day to 30-day suspension</p> <p>14-day suspension to removal</p> <p>Removal</p> <p>14-day suspension to removal</p>	<p>14-day suspension to removal</p> <p>30-day suspension to removal</p> <p>Removal</p> <p>Removal</p>

Nature of Offense	1st Offense	2nd Offense	3rd Offense
<p>(2) Unauthorized use of a drug or controlled substance while on Government premises or in a duty status.</p> <p>(3) Reporting to or being on duty while under the influence of a drug or controlled substance.</p> <p>(4) Sale or transfer of a drug or controlled substance while on Government premises or in a duty status or while any person involved is in a duty status.</p>	<p>14-day suspension to removal</p> <p>30-day suspension to removal</p> <p>Removal</p>	<p>30-day suspension to removal</p> <p>Removal</p>	<p>Removal</p>
<p>5. Making false, malicious or unfounded statements against coworkers, supervisors, subordinates, or Government officials which tend to damage the reputation or undermine the authority of those concerned.</p>	<p>Written reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>6. Unhygienic practices which annoy or jeopardize the health of others.</p>	<p>Oral admonishment to 5-day suspension</p>	<p>Written reprimand to 14-day suspension</p>	<p>5-day suspension to removal</p>

Nature of Offense	1st Offense	2nd Offense	3rd Offense
7. Conduct which is generally criminal, infamous, dishonest, immoral or notoriously disgraceful.	Written reprimand to removal	30-day suspension to removal	Removal
8. Abusive or offensive language, gestures, or other conduct. (Also see "Discourtesy", 9 below.)	Written reprimand to 10-day suspension	5-day suspension to removal	30-day suspension to removal
9. Discourtesy to the public.	Oral admonishment to 5-day suspension	Written reprimand to 10-day suspension	10-day suspension to removal
10. Stealing, actual or attempted; unauthorized possession of Government property or property of others.			
a. Where substantial value is not involved.	Written reprimand to 30-day suspension	14-day suspension to removal	Removal
b. Where substantial value is involved.	14-day suspension to removal	Removal	
11. Using Government property or Government employees in duty status for other than official purposes.	Written reprimand to removal	5-day suspension to removal	14-day suspension to removal

Nature of Offense	1st Offense	2nd Offense	3rd Offense
<p>Penalty depends on the value of the property or amount of employee time involved, the nature of the position held by the offending employee, and other factors.</p> <p>(For misuse of Government vehicles, see 43 below.)</p>			
12. Use of official authority or information for private gain.	14-day suspension to removal	Removal	
13. Failure to obtain required clearance of an official speech or article.	Written reprimand to 5-day suspension	5-day to 14-day suspension	14-day suspension to removal
14. Engaging in private business activities which result in or create the appearance of a conflict of interest.	Written reprimand to removal	20-day suspension to removal	Removal
15. Misuse of official Government credential.	Written reprimand to removal	5-day suspension to removal	10-day suspension to removal

Nature of Offense	1st Offense	2nd Offense	3rd Offense
16. Deliberate misrepresentation, falsification, concealment or withholding of a material fact, or refusal to testify or cooperate in an official proceeding.	Written reprimand to removal	5-day suspension to removal	14-day suspension to removal
17. Loss or damage to Government property, records, or information. (Also see 44.) Penalty depends on value of property or extent of damage, and degree of fault attributable to the employee.	Oral admonishment to removal	Written reprimand to removal	5-day suspension to removal
18. Offenses relating to fighting. Penalty depends on such factors as provocation, extent of injuries, and whether action was defensive or offensive in nature.			
a. Threatening or attempting to inflict bodily harm.	Written reprimand to 14-day suspension	14-day suspension to removal	30-day suspension to removal
b. Hitting, pushing, or other acts against another without causing injury.	Written reprimand to 30-day suspension	30-day suspension to removal	Removal

Nature of Offense	1st Offense	2nd Offense	3rd Offense
c. Hitting, pushing, or other acts against another causing injury.	14-day suspension to removal	Removal	
19. Delay in carrying out or failure to carry out instructions in a reasonable time.	Oral admonishment to removal	Written reprimand to removal	5-day suspension to removal
20. Insubordinate defiance of authority, disregard of directive, refusal to comply with proper order.	Written reprimand to 14-day suspension	5-day suspension to removal	Removal
21. Sleeping while on duty.			
a. Where no danger to persons or property is involved.	Oral reprimand to 1-day suspension	Written reprimand to 5-day suspension	5-day suspension to removal
b. Where danger to persons or property is involved.	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal
22. Negligent performance of duties.			
a. Where damage or waste to Government property is insubstantial.	Oral admonishment to 1-day suspension	Written reprimand to 5-day suspension	5-day suspension to removal
b. Where damage or waste to Government property is substantial.	Written reprimand to 10-day suspension	5-day suspension to removal	14-day suspension to removal

Nature of Offense	1st Offense	2nd Offense	3rd Offense
23. Offenses related to gambling.			
a. Participating in an unauthorized gambling activity while on Government premises or in duty status.	Oral admonishment to 1-day suspension	Written reprimand to 5-day suspension	10-day suspension to removal
b. Operating, assisting, or promoting an unauthorized gambling activity while on Government premises or in a duty status or while others involved are in a duty status.	Written reprimand to removal	Removal	
24. Unauthorized canvassing, soliciting or peddling on EPA premises.	Oral admonishment to 5-day suspension	Written reprimand to 14-day suspension	10-day suspension to removal
25. Participating in a strike, work stoppage, slowdown, sickout, or other job action.	Removal		
26. Indebtedness where operations or reputation of Agency or its employees are affected.	Oral admonishment to written reprimand	Written reprimand to 5-day suspension	5-day suspension to removal

Nature of Offense	1st Offense	2nd Offense	3rd Offense
27. Forging or falsifying official Government records or documents.	Written reprimand to removal	Removal	
28. Borrowing money or obtaining co-signatures from subordinates.	Written reprimand to removal	20-day suspension to removal	Removal
29. Unauthorized carrying of firearms while on EPA premises.	Written reprimand to removal	30-day suspension to removal	Removal
30. Conducting personal affairs while in duty status.	Written reprimand to 1-day suspension	2-day to 10 day suspension	30-day suspension to removal
31. Falsifying time and attendance records for oneself or another employee.	Written reprimand to removal	10-day suspension to removal	Removal

OFFENSES RELATED TO OBSERVANCE OF EMPLOYEE RIGHTS

Nature of Offense	1st Offense	2nd Offense	3rd Offense
32. Sexual harassment.	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal
33. Discrimination based on race, color, sex, religion, national origin, age, marital status, political affiliation, or handicap.	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal
34. Interference with an employee's exercise of, or reprisal against an employee for exercising, a right to grieve, appeal, or file a complaint through established procedures.	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal
35. Reprisal against an employee for providing information to an Office of Inspector General (or equivalent) or the Office of Special Counsel, or to an EEO investigator, or for testifying in an official proceeding.	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal
36. Reprisal against an employee for exercising a right provided under 5 U.S.C. Chap 71 (governing Federal labor-management relations).	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal

OFFENSES PROSCRIBED IN STATUTE

37. Finding by MSPB of refusal to comply with MSPB order or of violation of statute causing issuance of Special Counsel complaint. [5 U.S.C. 1206 (g) (1) and 1207 (b)]	Written reprimand to removal, debarment from Federal Service not to exceed 5 years, or assessment of civil penalty not to exceed \$1,000.
38. Directing or rendering services not covered by appropriations. [5 U.S.C. 3103]	Removal
39. Prohibited political activity. a. Violation of prohibition against political contributions. [5 U.S.C. 7323] b. Violation of prohibition against campaigning or influencing elections. [5 U.S.C. 7324 and 7325]	Removal 30-day suspension to removal
40. Failure to deposit into the Treasury money accruing from lapsed salaries or from unused appropriations for salaries. [5 U.S.C. 5501]	Removal

41. Soliciting contributions for a gift for a superior; making a donation as a gift to a superior; accepting a gift from an employee receiving less pay. [5 U.S.C. 7351]	Removal
42. Action against national security. [5 U.S.C. 7532]	Suspension to removal
43. Willfully using or authorizing the use of a government passenger motor vehicle or aircraft for other than official purposes. [31 U.S.C. 1344]	30-day suspension to removal
44. Willful concealment, removal, mutilation or destruction of a public record. [18 U.S.C. 2071]	Removal

SAMPLE OFFICIAL REPRIMAND

MEMORANDUM

SUBJECT: Official Reprimand

FROM: (Official Authorized to Effect Action)

TO: (Name of Employee), (Title or Other Designation)

This is a notice that you are officially reprimanded for (offense). (The offense must be specifically described in sufficient detail so that the employee will fully understand the violation, infraction, or other action or omission for which he or she is being reprimanded. In support of the incident, such specifics as time, place, dates and events will be included.) The circumstances which make this reprimand necessary were discussed with you by me (or other individual) on (date).

(In the event the reprimand is a follow-up of previous offenses and the action is considered as a continuation of constructive discipline, the former incidents will be restated and if the employee failed to take any remedial action previously decided upon, that fact shall also be included.)

(The employee shall also be advised as to any specific action required of him or her.)

You may call upon me for any assistance which you may need to help you overcome this deficiency and to avoid future recurrence.

A copy of this reprimand will be filed in your official personnel folder for a period not to exceed two years.

You may file a grievance concerning this action through (Personnel Office will designate applicable grievance system and time limits for filing). You may obtain further information about Agency grievance procedures from _____ in the Personnel Office.